

ATTORNEY DOCKET NO. 004163.00124

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

R. Eric Montgomery

Serial No.: 09/840,844

Filed: April 24, 2001

For: IMPROVED TOOTH WHITENING)
COMPOSITIONS)

Before the Examiner:

Shep K. Rose

) Art Unit: 1614

**Assistant Commissioner for Patents
Washington, D.C. 20231**

Sir:

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Petitioner, OraCeutical LLC, hereby states that it is the assignee of the entire right, title and interest in the instant application, as evidenced by an assignment document, recorded with the Patent and Trademark Office at reel 9882, frame 0544, for Patent no. 6,221,341, from which the instant application is a continuation. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,221,341. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent

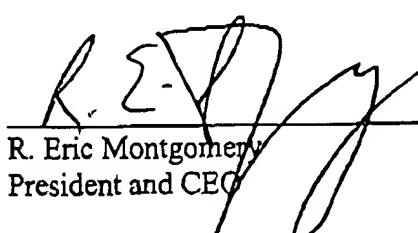
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granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned (whose title is supplied below) is empowered to act on behalf of the petitioner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 8-15-02


R. Eric Montgomery
President and CEO

X Terminal disclaimer fee under 37 CFR § 1.20(d) included.